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OFFICE OF PETITIONS

In re Application of
Scott Pownall et al.
Application No. 10/697,700
Filed: October 29, 2003
Attorney Docket No. 029996-0306374

ON PETITION

This is a decision on the petition filed March 29, 2007, to revive the above identified application under 37 CFR 1.137(b)¹.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on July 31, 2006, for failure to file a timely response to a Restriction Requirement mailed June 27, 2006, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed January 26, 2007.

The petition fee in the amount of \$750.00 has been applied to the finance records for the instant patent application.

A review of the record reveals that a five month extension of time was filed with the

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b) gratable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

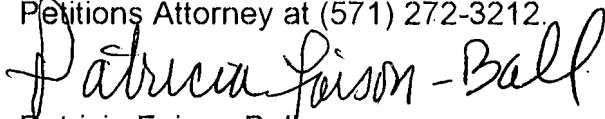
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1080.00 extension of time fee submitted with the petition on March 29, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 03-3975.

The response to the Restriction Requirement filed March 29, 2007 will be referred to Technology Center 1633 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions